IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7810 OF 2006

Vijay Bhopal Kinikar ...Petitioner

vs.

Karnataka State Road
Transport Corporation ...Respondent

Mr.S.G.Thorat for the Petitioner
Mr.C.M.Lokesh for the Respondent.

CORAM: A.S.OKA,J.
DATE : JUNE 15, 2007.

P.C.:

1. Heard Advocates for the parties. By consent, taken up for final hearing at the admission stage.

2. By the order impugned dated 13th April 2006 passed by the learned Member of the Motor Accident Claims Tribunal at Ichalkaranji, an Application filed by the Petitioner under section 140 of the Motor Vehicles Act,1988 has been rejected by holding that the medical certificate produced by the Petitioner does not show that the disability suffered by the Petitioner is the disability which is permanent in nature.

3. The learned Advocate for the Petitioner invited my attention to the medical certificate and he submitted that the certificate has been misread by the Tribunal. The learned Advocate for the Respondent submitted that the respondent is not the owner of the vehicle and the Respondent had hired the

vehicle. He submitted that he is in a position to submit all the particulars regarding the ownership of the vehicle. He,however, pointed out that there is no reply filed by the Respondent before the Tribunal.

4. Considering controversy involved, in my view, it will be in the interests of the justice to set aside the impugned order and to remand the matter to the Tribunal for fresh consideration. The Tribunal will permit the Petitioner, if he so desires, to carry out amendment to the claim petition and to produce additional documents. The Tribunal will also permit the Respondent to file a reply to the Petition.

5. Hence, I pass the following order :

i) The impugned order dated 13th April 2006 is quashed and set aside and the Application at Exh.5 under section 140 of the said Act of 1988 filed by the Petitioner is restored to the file.

ii) Parties are directed to appear before the learned Member of the Tribunal on 30th July 2007. It will be open for the Petitioner to apply for amendment of the Application under section 140 of the said Act and to produce additional documents. It will be open for the Respondent to file a reply to the application on or before 30th July

2007.

iii) The learned Member of the Tribunal will decide the Application made by the Petitioner afresh as expeditiously as possible and in any event on or before 30th September 2007.

iv) All contentions of the parties on merits in the pending Application are expressly kept open.

v) Writ Petition is partly allowed in above terms.

vi) Parties and the concerned court to act upon an authenticated copy of this order.

JUDGE